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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION,

- and -

**PACIFIC GAS AND ELECTRIC
COMPANY,**

Debtors.

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

** All papers shall be filed in the Lead Case, No. 19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

**REORGANIZED DEBTORS' NINETY-FIRST
OMNIBUS OBJECTION TO CLAIMS
(CUSTOMER NO LIABILITY ENERGY
RATE CLAIMS)**

Response Deadline:

July 14, 2021, 4:00 p.m. (PT)

Hearing Information If Timely Response Made:

Date: July 28, 2021

Time: 10:00 a.m. (Pacific Time)

Place: (Telephonic Appearances Only)

United States Bankruptcy Court

Courtroom 17, 16th Floor

San Francisco, CA 94102

1 **TO: (A) THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY**
2 **JUDGE; (B) THE OFFICE OF THE UNITED STATES TRUSTEE; (C) THE AFFECTED**
3 **CLAIMANTS; AND (D) OTHER PARTIES ENTITLED TO NOTICE:**

4 PG&E Corporation (“**PG&E Corp.**”) and Pacific Gas and Electric Company (the “**Utility**”), as
5 debtors and reorganized debtors (collectively, “**PG&E**” or the “**Debtors**” or as reorganized pursuant to
6 the Plan (as defined below), the “**Reorganized Debtors**”) in the above-captioned chapter 11 cases (the
7 “**Chapter 11 Cases**”) hereby submit this Ninety-First Omnibus Objection (the “**Objection**”) to the
8 Proofs of Claim (as defined below) identified in the column headed “Claims To Be Disallowed and
9 Expunged” on **Exhibit 1** annexed hereto.

10 **I. JURISDICTION**

11 This Court has jurisdiction over this Objection under 28 U.S.C. §§ 157 and 1334; the *Order*
12 *Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D. Cal.); and
13 Rule 5011-1(a) of the Bankruptcy Local Rules for the United States District Court for the Northern
14 District of California (the “**Bankruptcy Local Rules**”). This matter is a core proceeding pursuant to 28
15 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The
16 statutory predicates for the relief requested are section 502 of Title 11 of the United States Code (the
17 “**Bankruptcy Code**”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (collectively, the
18 “**Bankruptcy Rules**”).

19 **II. BACKGROUND**

20 On January 29, 2019 (the “**Petition Date**”), the Debtors commenced with the Court voluntary
21 cases under chapter 11 of the Bankruptcy Code. Prior to the Effective Date (as defined below), the
22 Debtors continued to operate their businesses and manage their properties as debtors in possession
23 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner was appointed
24 in either of the Chapter 11 Cases. The Chapter 11 Cases are being jointly administered for procedural
25 purposes only pursuant to Bankruptcy Rule 1015(b).

26 Additional information regarding the circumstances leading to the commencement of the Chapter
27 11 Cases and information regarding the Debtors’ businesses and capital structure is set forth in the
28 *Amended Declaration of Jason P. Wells in Support of the First Day Motions and Related Relief* [Docket
No. 263].

1 On July 1, 2019, the Court entered the *Order Pursuant to 11 U.S.C. §§ 502(b)(9) and 105(a),*
2 *Fed. R. Bankr. P. 2002, 3003(c)(3), 5005, and 9007, and L.B.R. 3003-1 (I) Establishing Deadline for*
3 *Filing Proofs of Claim, (II) Establishing the Form and Manner of Notice Thereof, and (III) Approving*
4 *Procedures for Providing Notice of Bar Date and Other Information to All Creditors and Potential*
5 *Creditors* [Docket No. 2806] (the “**Bar Date Order**”). The Bar Date Order set the deadline to file all
6 proofs of claim (each, a “**Proof of Claim**”) in respect of any prepetition claim (as defined in section
7 101(5) of the Bankruptcy Code), including all claims of Fire Claimants (as defined therein), Wildfire
8 Subrogation Claimants (as defined therein), Governmental Units (as defined in section 101(27) of the
9 Bankruptcy Code), and the Debtors’ customers (the “**Customers**”), and for the avoidance of doubt,
10 including all secured claims and priority claims, against either of the Debtors as October 21, 2019 at
11 5:00 p.m. Pacific Time (the “**Bar Date**”). The Bar Date later was extended solely with respect to unfiled,
12 non-governmental Fire Claimants to December 31, 2019 [Docket No. 4672]¹; and subsequently with
13 respect to certain claimants that purchased or acquired the Debtors’ publicly held debt and equity
14 securities and may have claims against the Debtors for rescission or damages to April 16, 2020 [Docket
15 No. 5943]. Pursuant to Paragraph 3(o) of the Bar Date Order, any Customer whose claim was limited
16 exclusively to ordinary and customary refunds, overpayments, billing credits, deposits, or similar billing
17 items was not required to file a Proof of Claim.

18 By Order dated June 20, 2020 [Dkt. No. 8053], the Bankruptcy Court confirmed the *Debtors’*
19 *and Shareholder Proponents’ Joint Chapter 11 Plan of Reorganization Dated June 19, 2020* (as may be
20 further modified, amended or supplemented from time to time, and together with any exhibits or
21 scheduled thereto, the “**Plan**”). The Effective Date of the Plan occurred on July 1, 2020 (the “**Effective**
22 **Date**”). See Dkt. No. 8252.

23 **III. RELIEF REQUESTED**

24 The Reorganized Debtors file this Objection, pursuant to section 502 of the Bankruptcy Code,
25 Bankruptcy Rule 3007(d)(6), Bankruptcy Local Rule 3007-1, and the *Order Approving (A) Procedures*
26 *for Filing Omnibus Objections to Claims and (B) the Form and Manner of the Notice of Omnibus*

27 ¹ The claims of Fire Claimants will be administered through the Fire Victim Trust and the claims of
28 Wildfire Subrogation Claimants through the Subrogation Wildfire Trust in accordance with the Plan.

1 *Objections*, dated June 30, 2020 [Docket No. 8228] (the “**Omnibus Objections Procedures Order**”),
2 seeking entry of an order disallowing and expunging Proofs of Claim filed by certain Customers for
3 which the Debtors are not liable (the “**Customer No Liability Energy Rate Claims**”). The Customer
4 No Liability Energy Rate Claims are identified on **Exhibit 1**, in the columns headed “Claims To Be
5 Disallowed and Expunged.” The Customer No Liability Energy Rate Claims listed on **Exhibit 1** seek
6 recovery for energy billing rates charged (*e.g.*, the Customers allege increases in their energy bills or
7 that they were overcharged or overpaid for energy provided by PG&E). As set forth below, the Debtors
8 are not liable for any such amounts.

9 The Reorganized Debtors’ personnel conducted a rigorous review of their records to confirm that
10 the holders of the Customer No Liability Energy Rate Claims did not hold any valid non-ordinary course
11 prepetition Claims.² First, the Reorganized Debtors and their advisors either established that all
12 Claimants were current or former Customers of the Utility or that the Claims sought amounts solely
13 related to recovery of energy billing rates charged. Second, the Reorganized Debtors’ Customer Fund
14 Management and Customer Energy Solutions Program Operations Departments cross-checked these
15 Claims against records maintained with respect to non-energy billing issues and confirmed that they did
16 not correspond to known prepetition claims relating to these Customers. Third, the Reorganized
17 Debtors’ Customer Relations Department cross-checked the Claims against complaints made to the
18 California Public Utilities Commission and excluded any claims where a formal complaint remained
19 unresolved. Finally, the Reorganized Debtors and their professionals checked Claimants’ names against
20 parties with known litigation claims, Fire Victim Claims, and other property damage claims. Any
21 matches have been excluded and are not the subject of this Objection.

22 Accordingly, for the reasons set forth herein, the Customer No Liability Energy Rate Claims
23 should be disallowed and expunged because they do not represent a valid prepetition right to payment.

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26 ² As set forth in the *Reorganized Debtors’ Sixty-Fifth Omnibus Objection to Claims (Customer No*
27 *Liability / Passthrough Claims)* [Docket No. 10296], Customer claims arising from ordinary and
28 customary refunds, overpayments, billing credits, deposits, or similar billing items are resolved in the
ordinary course.

1 **IV. ARGUMENT**

2 **A. The Customer No Liability Energy Rate Claims Should Be Disallowed**
3 **and Expunged**

4 The Omnibus Objections Procedures Order supplemented Bankruptcy Rule 3007(d) to permit
5 the Reorganized Debtors to file objections to more than one claim if “[t]he claims seek recovery of
6 amounts for which the Debtors are not liable.” Omnibus Objections Procedures Order, ¶ 2(C)(iii). The
7 Reorganized Debtors and their professionals have reviewed each of the Customer No Liability Energy
8 Rate Claims identified on **Exhibit 1** and have determined that each such Claim does not represent a
9 current right to payment because it only seeks recovery based upon the energy rates charged by PG&E.

10 Under California’s filed rate doctrine, public utilities whose rates are approved by a regulatory
11 agency—here, the California Public Utilities Commission (the “CPUC”)—“are insulated from lawsuits
12 challenging those rates and from court orders having the effect of imposing a rate other than that filed
13 with” or approved by the regulatory agency. *Day v. AT& T Corp.*, 63 Cal. App. 4th 325, 335 (1998).
14 The rationale underlying this doctrine is preserving “agency autonomy in rate setting without court
15 interference.” *Id.* As the CPUC has approved the rates charged by PG&E, neither Customers nor the
16 Court are “institutionally well suited to engage in retroactive rate setting.” *Wegoland Ltd. v. NYNEX*
Corp. 27 F.3d 17, 19 (2d Cir. 1994).

17 If not expunged, the Customer No Liability Energy Rate Claims potentially could allow the
18 applicable Claimants to receive recoveries to which they are not entitled. Each of the Claimants is listed
19 alphabetically, and the claim number and amount are identified in accordance with Bankruptcy Rule
20 3007(e). Furthermore, in accordance with the Omnibus Objections Procedures Order, the Reorganized
21 Debtors have sent individualized notices to the holders of each of the Customer No Liability Energy
22 Rate Claims.

23 **B. The Claimants Bear the Burden of Proof**

24 A filed proof of claim is “deemed allowed, unless a party in interest . . . objects.” 11 U.S.C.
25 § 502(a).³ Section 502(b)(1) of the Bankruptcy Code, however, provides in relevant part that a claim

26 ³ Upon the Reorganized Debtors’ request, the deadline under Section 7.1 of the Plan for the Reorganized
27 Debtors to bring objections to Claims initially was extended through and including June 26, 2021 (except
28 for Claims of the United States, which deadline was extended to March 31, 2021) [Docket No. 9563].
That deadline has been further extended through December 23, 2021, except for Claims of the California
Department of Forestry and Fire Protection, which deadline was extended to September 30, 2021,

1 may not be allowed if “such claim is unenforceable against the debtor and property of the debtor, under
2 any agreement or applicable law.” 11 U.S.C. § 502(b)(1). Once the objector raises “facts tending to
3 defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves,”
4 *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991), quoting 3 L. King, *Collier on*
5 *Bankruptcy* § 502.02 at 502-22 (15th ed. 1991), then “the burden reverts to the claimant to prove the
6 validity of the claim by a preponderance of the evidence,” *Ashford v. Consolidated Pioneer Mortgage*
7 *(In re Consolidated Pioneer Mortgage)* 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995) (quoting *In re*
8 *Allegheny Int’l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)), *aff’d without opinion* 91 F.3d 151 (9th Cir.
9 1996). “[T]he ultimate burden of persuasion is always on the claimant.” *Holm*, 931 F.2d at 623 (quoting
10 King, *Collier on Bankruptcy*); *see also Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039
11 (9th Cir. 2000); *Spencer v. Pugh (In re Pugh)*, 157 B.R. 898, 901 (B.A.P. 9th Cir. 1993); *In re Fidelity*
12 *Holding Co.*, 837 F.2d 696, 698 (5th Cir. 1988).

13 As set forth above, the Reorganized Debtors submit that the Customer No Liability Energy Rate
14 Claims do not represent a valid right to payment and thus should be disallowed and expunged in their
15 entirety. If any Claimant believes that a Customer No Liability Energy Rate Claim is valid or otherwise
16 represents a current right to payment, it must present affirmative evidence demonstrating the validity of
17 that Claim

18 **V. RESERVATION OF RIGHTS**

19 The Reorganized Debtors hereby reserve the right to object, as applicable, in the future to any of
20 the Proofs of Claim listed in this Objection on any ground, and to amend, modify, or supplement this
21 Objection to the extent an objection to a claim is not granted, and to file other objections to any proofs
22 of claims filed in these cases, including, without limitation, objections as to the amounts asserted therein,
23 or any other claims (filed or not) against the Debtors, regardless of whether such claims are subject to
24 this Objection. A separate notice and hearing will be scheduled for any such objections. Should the
25 grounds of objection specified herein be overruled or withdrawn, wholly or in part, the Reorganized

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27 without prejudice to the right of the Reorganized Debtors seek further extensions thereof [Docket
28 No. 10494]. The deadline with respect to Claims of the United States has been further extended by
stipulation and order [Docket Nos. 10459 and 10463].

1 Debtors reserve the right to object to the Customer No Liability Energy Rate Claims on any other
2 grounds that the Reorganized Debtors may discover or deem appropriate.

3 **VI. NOTICE**

4 Notice of this Objection will be provided to (i) holders of the Customer No Liability Energy Rate
5 Claims; (ii) the Office of the U.S. Trustee for Region 17 (Attn: Andrew R. Vara, Esq. and Timothy
6 Laffredi, Esq.); (iii) all counsel and parties receiving electronic notice through the Court's electronic
7 case filing system; and (iv) those persons who have formally appeared in these Chapter 11 Cases and
8 requested service pursuant to Bankruptcy Rule 2002. The Reorganized Debtors respectfully submit that
9 no further notice is required. No previous request for the relief sought herein has been made by the
10 Reorganized Debtors to this or any other Court.

11 WHEREFORE the Reorganized Debtors respectfully request entry of an order granting (i) the
12 relief requested herein as a sound exercise of the Reorganized Debtors' business judgment and in the
13 best interests of their estates, creditors, shareholders, and all other parties interests, and (ii) such other
14 and further relief as the Court may deem just and appropriate.

15 Dated: June 17, 2021

KELLER BENVENUTTI KIM LLP

16 By: /s/ Thomas B. Rupp
17 Thomas B. Rupp

18 *Attorneys for Debtors and Reorganized Debtors*
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